

Question: Why do policy problems persist?

Introduction

Despite repeated attempts at regulation throughout the 20th and 21st centuries, the U.S. has continued to face the persistent issue of price fixing in the meat processing industry. In 1902 the U.S. attorney general brought a lawsuit against the “Big Six” meat processors for artificially controlling prices by agreeing not to bid against one another (Swift, 2024). Over the next century, many lawsuits have been filed against meat processors. More recently, in 2022 and 2023 JBS USA paid \$20 million and Smithfield paid \$158 million in price fixing settlements related to the pork industry (McCarthy, 2024). These lawsuits are part of a longstanding corporate collusion pattern that has overrun the industry (Huang, 2022).

The meat processing industry occupies a unique space in the U.S. A combination of meat processing being treated as a public good, entrepreneurial politics, and industry consolidation causing a market failure, has created a system of corporate dominance. As a result, consumers, livestock farmers, and the broader food industry have been negatively impacted.

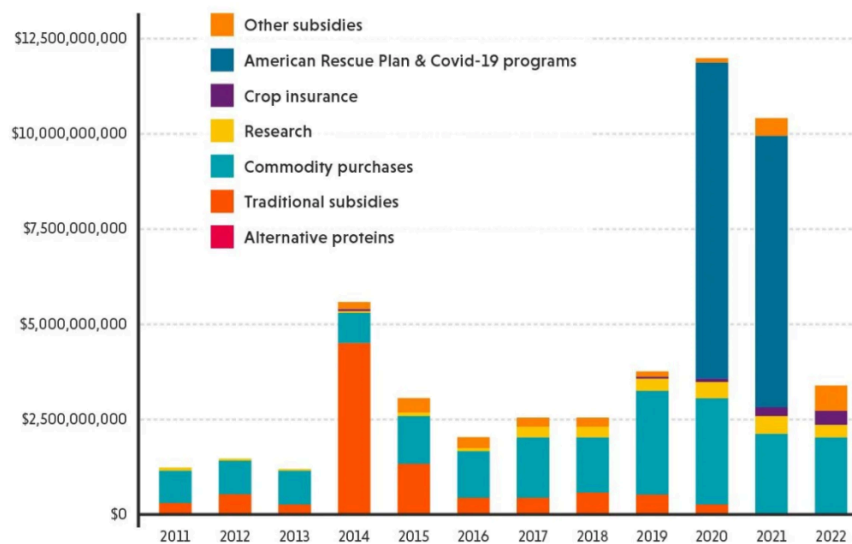
Government Subsidies and the Creation of a Public Good

In a similar fashion to other public goods, such as public transportation and housing, the U.S. government has effectively turned meat into a public good, through the use of subsidies. This has resulted in industry success being prioritized during the agenda-setting phase of the policy cycle instead of regulating anti-competitive behavior within the sector. Consolidation in the meat industry has led to lower-cost meat due to lower overhead costs as companies grew

(Barkema, 2001). However, these companies abuse the market conditions and take advantage of their power in the sector.

Eating meat is pervasive, normalized, and culturally significant throughout the U.S. Many Americans see meat as an essential good that everyone has the right to access (Sewell, 2020). In the past, meat was excludable, due to its high price, and rival, due to production constraints, classifying it as a private good. The shift to cheaper and more accessible meat has turned meat into a public good. Meat became more accessible in the 20th century with the industrialization of meat processing (Coyle, 2023). As meat became a staple in the U.S. diet, the government began supporting the industry with subsidies. The U.S. spends about \$38 billion a year on subsidies for the meat and dairy industries. Without subsidies, a pound of ground beef in the U.S. would cost \$30 (Joshi, 2016) instead of the average of \$6.08 per pound (USDA 2024). Meat has become so accessible in the U.S., the average American eats 200 lbs of meat a year, more than twice the global average (Sewell, 2020). Meat is so essential in America, the U.S. spent \$15 billion over two years to ensure meat production continued during the COVID-19 pandemic. That is 25% of the total spent on the meat industry between 2011 and 2022 (Figure 1).

Figure 1. Subsidies Directed Towards the Meat Industry and Alternative Proteins



(Hayes, 2023)

The goal of public goods is to have them as accessible as possible. As the government started heavily subsidizing the meat industry, the processing sector became more consolidated through mergers and acquisitions, which increased efficiencies, further driving down the cost of meat (MacDonald, 2024). With government influence so heavily skewed in favor of the meat industry, it becomes increasingly difficult to enforce antitrust regulations on that same industry. Meanwhile, the consolidation of meat processors has strengthened their power and ability to manipulate the market, perpetuating cycles of price fixing. Subsidizing the industry while attempting to regulate consolidation would be like one hand is building a tower while the other dismantles it.

Government Created Entrepreneurial Politics

The meat industry benefits from entrepreneurial politics. The costs of price fixing are dispersed among the general public, while the benefits are concentrated in the hands of a few large entities. This dynamic enables a few large meat processors to coordinate on behalf of their interests than it would be for the entire meat-eating consumer base. Private companies and commodity boards, which are intertwined with the government's checkoff programs, spend millions of dollars on lobbying efforts (McCracken, 2024). This political pressure has helped prevent meaningful regulatory reform including any true crackdown on price fixing.

The creation of government checkoff programs, which are designed to promote commodities like beef, pork, and lamb, have effectively established government-sponsored entrepreneurial politics (Checkoff, 2024). These checkoff programs take what would otherwise be a disjointed commodity industry made up of farmers, processors, and sellers, and create a consolidated singular body to further the interest of the industry (Wilde, 2006). For example, The beef checkoff program's mission is: "dedicated to improving producer profitability, expanding consumer demand for beef, and strengthening beef's position in the marketplace" (Cattlemen's, 2017). The federal government is heavily involved in these programs. They enforce the collection of mandatory dues that fund checkoff programs from the industry and defend these programs' communication in court as the government speech (Wilde, 2006).

While the mandatory payments collected from the industry to fund checkoff programs are not allowed to be spent on lobbying, each program is allowed to send their commodity's lobbying association money to be used for other purposes (Douglas, 2019). However, it has become an

open secret that checkoff program funds are being funneled to support lobbying efforts. In 2011, a deal was made for the pork advertising body, the Pork Board, to pay pork's lobbying body, the National Pork Producers Council (NPPC), \$60 million over 20 years to license the slogan "the other white meat" which at the time was no longer in use. "Small farmers have long been unhappy about the close relationship between the two groups, and see the rich payments for a defunct slogan as an egregious example of the government taking their money and then letting it be siphoned off to an industry group" (Vinik, 2015). In 2019, court documents revealed that millions of dollars from the beef checkoff fund were sent to the National Cattlemen's Beef Association (NCBA), the beef industry's lobbying group. In 2010 an audit found that the NCBA used \$200,000 of the checkoff program's money for direct lobbying and was forced to pay it back (Vinik, 2015).

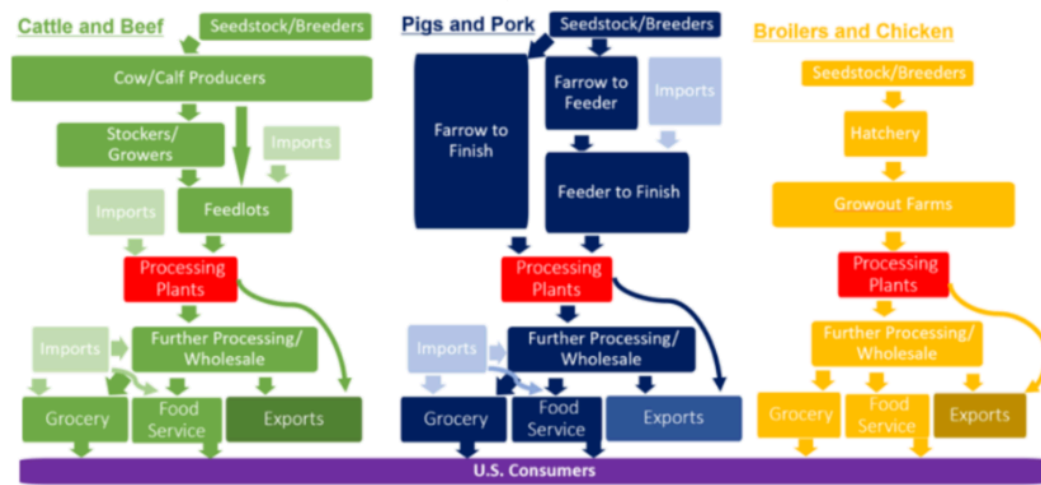
We can see an example of entrepreneurial politics directly undermining the USDA's and Biden Administration's efforts to stop price fixing in the meat industry. In 2021, the Biden administration issued a report outlining that lower competition in the meat processing sector was leading to higher prices for consumers and lower profits for livestock producers, indicating a market failure (Figure 2). In 2023 the USDA started to take corrective action against the meat processors based on the findings of the 2021 report. The USDA rolled out new rules under the Packers and Stockyard Act which included the new Transparency in Poultry Grower Contracting and Tournaments rule (TPGCT) (McCracken, 2024). The TPGCT aimed to protect chicken farmers "so that meat processors can't use their market dominance to abuse farmers and ranchers" (Deese, 2021). Mandatory price reporting for the pork and beef industry was already put into

place by the Livestock Mandatory Reporting Act in 1999. A study done in 2015 by the USDA did show price transparency created a market in which there were “gains to livestock sellers, meatpackers, and—ultimately—consumers, all of whom benefit from having more information on prices” (Mathews, 2015). While there is evidence that will be discussed later in this essay that shows that public price reporting eventually led to tacit collusion among beef processors (Bolotova, 2023), there was still a 15-year period in which the markets became more fair in the beef industry (Mathews, 2015).

As a result of these new proposed rules, lobbying dollars spent by the meat processing industry skyrocketed starting in 2021. While the TPGCT rule was already put in place, the lobbying efforts turned their attention to defunding its enforcement. In 2023, Rep. Andy Harris, The Agriculture, Rural Development, Food and Drug Administration Appropriations Subcommittee chairperson, introduced an appropriations bill that blocked funding for enforcing the TPGCT rule. That bill failed, but the bill’s language ended up in the 2023 farm bill. Harris received the most money he has ever received, \$24,000, that year from meat industry groups (McCracken, 2024).

“Companies and lobbying organizations said their increase in lobbying was directly related to legislation like the Farm Bill” (McCracken, 2024). Entrepreneurial politics continues to shield the industry from regulatory oversight.

Figure 2. U.S. Beef, Pork, and Broiler Supply Chains

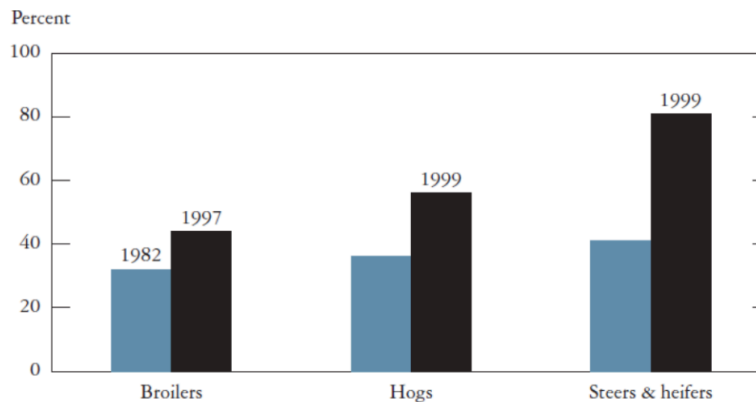


(Deese, 2021)

Consolidation Leading to Market Failure

Due to low regulatory oversight, industry consolidation has led to monopolistic practices in the meat processing industry. The top four meat processors have gained significant market share since 1982 (Figure 3). This level of consolidation has led to a market failure in which processors manipulate supply and demand, affecting prices for both consumers and livestock growers.

Figure 3.
MARKET SHARE OF TOP FOUR PROCESSING FIRMS



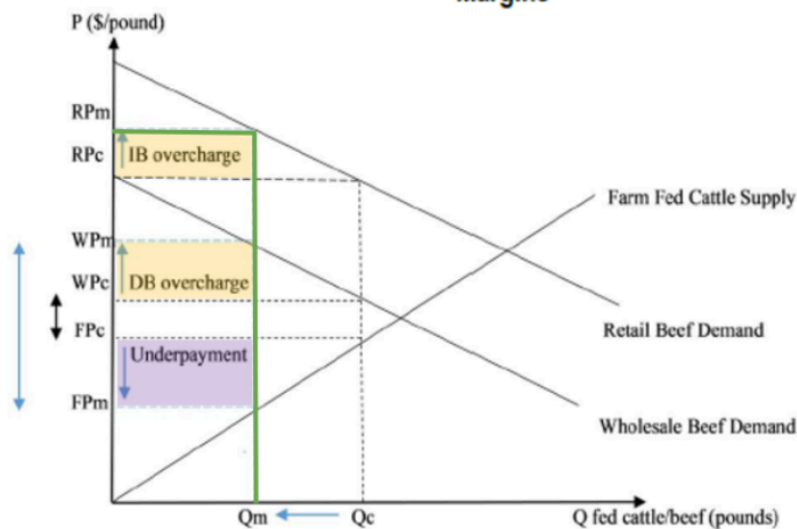
(Barkema, 2001)

To demonstrate this issue, this essay will focus on how consolidation has affected the beef market.

In 2023, four companies controlled 85% market share of the beef processing market (Bolotova, 2023). In recent years, many groups have accused these four companies, Tyson Foods, JBS USA, Cargill, and National Beef Packing Company, of creating a beef cartel that engaged in price fixing. In 2019, U.S. fed cattle producers and beef buyers filed a class action lawsuit against all four claiming, “these companies engaged in an unlawful conspiracy with the purpose of decreasing fed cattle prices and increasing wholesale and retail prices of beef as early as January 2015” (Bolotova, 2023). Most recently, in October of 2024, McDonalds filed a lawsuit that mirrors this 2019 lawsuit. McDonalds, a large corporation known for its buying power, has claimed to be affected by price fixing in the beef industry (Meyer, 2024).

The evidence showing market failure in the beef industry starts in 2015. Between 2010 and 2015, the pre-cartel period, fed cattle prices rose at similar rates to wholesale and retail beef prices, maintaining a balance between market inputs and outputs prices (Bolotova, 2022a). However, in 2015, fed cattle prices only increased by 5.4% while retail and wholesale beef rose by 13.6% and 18.3%, respectively (Bolotova, 2021). JBS and Tyson’s profit margins grew from 1-4% to 4-8% during this time (Bolotova, 2023). An imbalance such as this, is expected in a falling market. In 2015 “Tyson and JBS emphasized that their goal was to operate a ‘margin business’, rather than a ‘market share business’” (Bolotova, 2023).

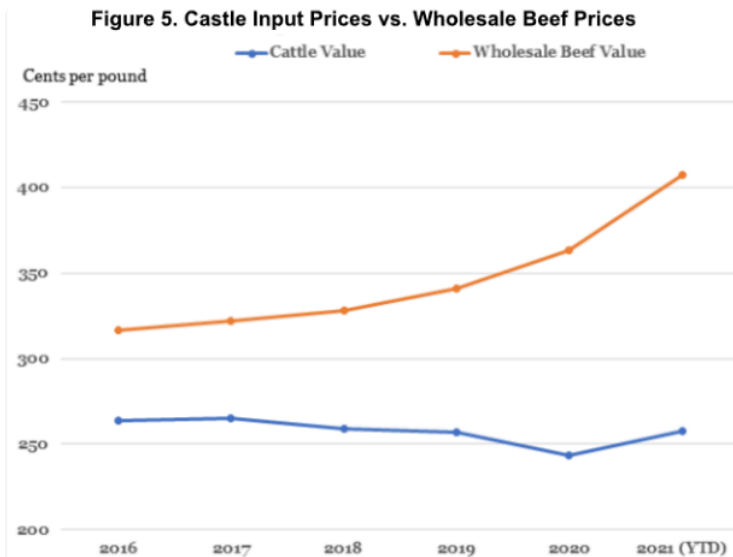
Figure 4. The Beef Packing Industry: The Market Power Effects on Beef Quantity, Prices, and Margins



(Bolotova, 2023)

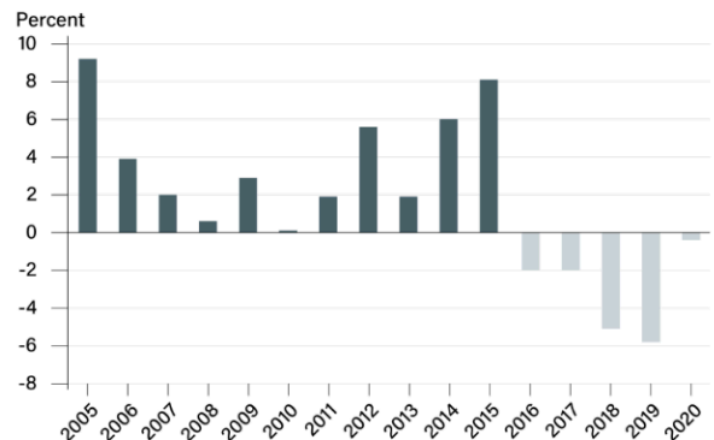
Both the 2019 and 2024 lawsuits brought against the beef processing industry allege that the top four beef processors colluded to influence the prices of the market by lowering their own demand for fed cattle which caused prices for fed cattle to fall (Figure 4). The green line in Figure 4 shows that in an anti-competitive market, the prices for wholesale and retail beef go up as the quantity of fed cattle slides down from the competitive point (Q_c) to the anti-competitive point (Q_m). This figure then shows that at that same point Q_m , the price for farm fed cattle goes down compared to the Q_c point. This then creates the yellow squares which represent the overcharges in the wholesale and retail market (overcharges to food companies, grocery stores and consumers) and the purple squares which represent the underpayment in the fed cattle market (underpayment to livestock growers). The real market results of this can be seen in Figure 5, which shows that between 2016 and 2021 fed cattle prices (cattle value) went down as wholesale beef value went up. The alleged actions the beef processor took to reduce the

demand for fed cattle include: decreasing their slaughter capacity by closing plants, coordinated purchasing practices for cash cattle using the mandatory price reporting records (Bolotova, 2023), and did not expand plant capacity even when demand was rising (Figure 6).



(Deese, 2021)

Figure 6. Excess capacity in meatpacking industry was eliminated after 2015



Note: Bars represent unused plant capacity in U.S. meatpacking industry.
Source: USDA, Economic Research Service using data from "The U.S. Beef Supply Chain: Issues and Challenges," a workshop on cattle markets by Texas A&M Agricultural and Food Policy Center, 2021.

(MacDonald, 2024)

Conclusion

While the U.S. government continues to make efforts to mitigate market failure in the meat industry, its prioritization of affordability and the influence of entrepreneurial politics have hindered the effectiveness of regulations. Despite regulatory efforts, consolidation has continued, leading to market failure and poor outcomes for farmers and consumers. Market manipulation in the industry has become the goal or standard for processors. Price fixing has become the norm in the industry, and repeated lawsuits have not been effective in curtailing

this issue. New regulations must be passed without the interference of lobbying or monetary influence from the industry.

References

- Barkema, A., Drabenstott, M., & Novack, N. (2001). The new US meat industry. *Economic Review-Federal Reserve Bank of Kansas City*, 86(2), 33-56.
- Bolotova, Y. V. (2021). An Empirical Analysis of Pricing in the US Beef Industry.
- Bolotova, Y. V. (2022). Competition issues in the US beef industry. *Applied Economic Perspectives and Policy*, 44(3), 1340-1358.
- Bolotova, Y. V. (2022). Price-Fixing in the US Broiler Chicken and Pork Industries. *Applied Economics Teaching Resources (AETR)*, 4(4), 55-82.
- Bolotova, Y. V. (2023). Is There Price Fixing in the US Beef Packing Industry?. *Choices*, 38(4), 1-8.
- Cattlemen's Beef Board 2017 Annual Report. (2017). Cattlemen's Beef Promotion & Research Board.
<https://www.beefboard.org/wp-content/uploads/2019/06/FY17-Annual-Report.pdf>
- Checkoff Programs - National Agricultural Law Center. (n.d.). [Nationalaglawcenter.org](https://nationalaglawcenter.org); The National Agricultural Law Center .
<https://nationalaglawcenter.org/research-by-topic/checkoff-programs/>
- Coyle, C., & McKinstry, A. (2023). The Benefits and Burdens of Meat Consumption.
- Danny Vinik. (2015, August 30). A \$60 million pork kickback? *Politico*; Politico.
<https://www.politico.com/agenda/story/2015/08/a-60-million-pork-kickback-000210/>

Deese, B., Fazili, S., & Ramamurti, B. (2021). Addressing concentration in the meat-processing industry to lower food prices for American families. The White House Briefing Room.

Douglas, L. (2019, October 9). Court documents show beef checkoff sends millions to cattle lobby | Food and Environment Reporting Network. Thefern.org; Fern's AG Insider.
https://thefern.org/ag_insider/court-documents-show-beef-checkoff-sends-millions-to-cattle-lobby/

Hayes, J. (2023, August 30). USDA livestock subsidies top \$59 billion | Environmental Working Group. Wwww.ewg.org; Environmental Working Group.
<https://www.ewg.org/news-insights/news/2023/08/usda-livestock-subsidies-top-59-billion>

Huang, J. (2022, March). Monopsony, cartels, and market manipulation: Evidence from the us meatpacking industry. In Royal Economic Society Annual Conference.

Joshi, I., Param, S., & Irene & Gadre, M. (2016). Saving the Planet: The Market for Sustainable Meat Alternatives.

MacDonald, J. M. (2024). Concentration in US Meatpacking Industry and How it Affects Competition and Cattle Prices. Amber Waves: The Economics of Food, Farming, Natural Resources, and Rural America, 2024.

Mathews, K., Brorsen, B. W., Hahn, W., Arnade, C., & Dohlman, E. (2015). Mandatory price reporting, market efficiency, and price discovery in livestock markets.

McCarthy, R. (2024, July 9). Latest pork price-fixing notice issued by Minnesota Federal Court.

Meat Poultry.

<https://www.meatpoultry.com/articles/30456-latest-pork-price-fixing-notice-issued-by-minnesota-federal-court>

McCracken, J. (2024, May 30). As USDA updates the Packers and Stockyard Act, meat industry increases political spending, lobbying. Investigate Midwest; Investigate Midwest.

<https://investigatemidwest.org/2024/05/30/packers-stockyards-update-meat-industry-lobbying/>

Meyer, G. (2024, October 7). McDonald's accuses meatpackers of price-fixing in lawsuit over beef costs. FT.COM; Financial Times.

<https://www.ft.com/content/23b9ebc5-3d1b-4882-b6ef-96184cc1413a>

Sewell, C. (2020, February 11). *Removing the Meat Subsidy: Our Cognitive Dissonance Around Animal Agriculture*. Jia.sipa.columbia.edu; Columbia Journal of International Affairs.

<https://jia.sipa.columbia.edu/news/removing-meat-subsidy-our-cognitive-dissonance-around-animal-agriculture>

Swift and Company v. United States. (n.d.). Oyez. Retrieved October 18, 2024, from

<https://www.oyez.org/cases/1900-1940/196us375>

USDA. (2024, August 20). National Retail Report -Beef Advertised Prices for Beef at Major Retail Supermarket Outlets ending during the period of 12/27 thru 01/02.

<https://www.ams.usda.gov/mnreports/lswbfrtl.pdf>

Vinik, Danny. (2015, August 30). A \$60 million pork kickback? Politico; Politico.

<https://www.politico.com/agenda/story/2015/08/a-60-million-pork-kickback-000210/>

Wilde, P. E. (2006). Federal communication about obesity in the Dietary Guidelines and checkoff programs. *Obesity*, 14(6), 967-973.